

COPY in 4050

opinion

NEW HAMPSHIRE LAW LIBRARY

SEP 03 1998

CONCORD, N.H.

1951

Mar. 12

Honorable Lane Edmunds  
Speaker, House of Representatives

Dear Sir:

You have inquired if the Legislature may elect a state treasurer, such election to become effective at a future date or at the pleasure of the Governor and Council. In my opinion such a procedure is not permissible under our Constitution and statutes.

Our system of government contemplates the biennial election of a treasurer by a ballot of the Senate and House of Representatives "assembled in one room." N. H. Const., Part II, Art. 67. Persons taking office must qualify by taking the oath, and giving such bond as may be required by the Governor and Council. N. H. c. 26, s. 4; 26, c. 22, s. 2, as amended by H. 1942, c. 107. While acceptance is necessary, it may be implied by the candidate's conduct before, as well as after, the election. *Johnson v. Wilson*, 2 N. H. 202, 203.

The choice or appointment, however, is complete when the ballots are counted and the vote is announced. This is a well established principle. 42 N. H. Const., Public Officers, s. 103; 46 N. H. Const., s. 67 c.

It is my conclusion that the election is made at the time it is announced, and that the person so elected should take office as soon as reasonably possible to complete the necessary steps of qualification suggested above. In the absence of a statute, unnecessary delay in taking office causes uneasiness. A commissioner of the treasury will, of course, continue in office until the elected treasurer takes oath and furnishes bond. N. H. c. 22, s. 10.

Very truly yours,

Gordon H. Tiffany  
Attorney General